

DANIEL NYDEGGER, )  
)  
Plaintiff, )  
)  
vs. ) Case No. 4:09CV1723 AGF  
)  
MICHAEL J. ASTRUE, )  
)  
Commissioner of Social Security, )  
)  
Defendant. )

This matter is before the Court on Defendant’s motion to reverse and remand this Social Security disability case pursuant to sentence four of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).<sup>1</sup> Following a hearing on Plaintiff’s application for Disability Insurance Benefits and Supplemental Security Income, an Administrative Law Judge (“ALJ”) found that Plaintiff was not disabled. The decision of the ALJ became the final decision of the Commissioner of Social Security, and Plaintiff sought judicial review of the adverse ruling.

The Commissioner now states that agency counsel asked the Appeals Council of the Social Security Administration to reconsider the Commissioner's decision, and that upon review, the Appeals Council determined that remand was appropriate for further consideration of Plaintiff's claims. The Commissioner asserts that upon remand by the

<sup>1</sup> The parties have consented to the exercise of authority by the undersigned United States Magistrate Judge under 28 U.S.C. § 636(c).


Court, the Appeals Counsel will remand the case to the ALJ with directions to further clarify Plaintiff's residual functional capacity, and, if necessary, obtain the testimony of a vocational expert to determine if Plaintiff is capable of performing work that exists in significant numbers in the national economy. Plaintiff's counsel has represented to the Court that Plaintiff has no objection to the Commissioner's motion to remand.

Sentence four of 42 U.S.C. § 405(g) provides that upon judicial review, "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The Court concludes that the Commissioner's motion should be granted in this case.

Accordingly,

**IT IS HEREBY ORDERED** that Defendant's motion to reverse and remand the case is **GRANTED**. [Doc. #21]

A Judgment shall accompany this Memorandum and Order.

  
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AUDREY G. FLEISSIG  
UNITED STATES MAGISTRATE JUDGE

Dated this 28th day of April, 2010.